1039.

OFFICE OF THE DEWAN OF MYSORE.

Record of Cases Coming before the Council of H. H. the Maharaja.

Subject—*(Clause of Schedule.)*

Conduct of Dr. Fernandez as brought out during the trial of T. G. Krishna Rao, clerk, Chikmaglur Civil Hospital, in Kadur Sessions Case No.I of 1902-03 on the file of the Court of Sessions, Hassan Division.

Secretary's Note.

× Paper A.

As the judgment× in the Sessions Case disclosed a series of grave irregularities and culpable omissions on the part of Dr. Fernandez during the period of his employment as Civil Surgeon of the Kadur District, resulting in a systematic embezzlement of Government money to the extent of several thousands of rupees, and as there were certain other suspicious circumstances in the case, it was considered necessary to call for his explanation before final orders were passed in the matter. A memorandum× of points to be explained by Dr. Fernandez was accordingly sent to him through the Senior Surgeon. Pending orders on such explanation he was directed to await orders at Head quarters. For the explanation of Dr.Fernandez and the notes thereon by the Senior Surgeon, please see papers marked. C & D

× Paper B.

× Paper E.

An abstract× of the charges against him ~~and~~ as well as of the explanation furnished by him, is appended to this note.

Enclosure to No 5355 dt 3rd October 1902.
Dis. 820

Confidential

Points to be explained by Dr. S.A. Fernandez.

The accused Krishna Rao, late Writer in the Chikmagalur Hospital, while admitting that he overdrew a sum of Rs.121-2-0 on the abstract contingent bill for March 1902, asserted that he did so under instructions from Dr. Fernandez, and on his giving the assurance that he would return to the charge of the Hospital before the end of the month, and that he (the Writer) paid the amount to Dr. Fernandez when he had come to Chikmagalur on the 28th March last.

2. In support of this allegation, and of ~~his~~ the relations in monetary matters between himself and Dr. Fernandez, the accused has produced eight letters and 24 slips of paper, all in Dr. Fenrandez's handwriting, and addressed to the Writer. The slips purport to be demands for money made from time to time by Dr. Fernandez.

3. The allegations made by the accused Writer are: that swindling has been going on regularly month by month since 1892 by increasing the figures relating to diets in particular and by including also additional items; that all bills and returns were being prepared generally in the Doctor's bungalow on the last date of the month, when corrections with a view to enhance the amounts were made under Dr. Fernandez's instructions; that private purchases by Dr. Fernandez for his own use used to be embodied in the detailed contingent bills (as in the instance of the purchases from Banniram's shop in July 1901); that the fair copies of the detailed contingent bills sent to the Senior Surgeon's office were quite different from the office copies, the objectionable items contained in the latter being omitted from the former; that Dr. Fernandez was in the habit of misappropriating money from sanctioned clothing and other indents (as in the case of the clothing indent sanctioned in September 1900 for Rs.488-8-0 against an actual expenditure of only Rs.102 odd, vide accounts of Marwari Sheraji).

and the other is an English translation of the same in the accused's handwriting, but bears certain corrections which are unquestionably in the handwriting of Dr. Fernandez.

7. On looking into Marwari Sheraji's account it is found that Dr. Fernandez made purchases of articles of clothing for the Hospital in September 1900 to the extent of Rs.102 and odd. But the contingent bill for the month makes out the purchases to have been for Rs.488-8-0, and made through the then Hospital contractor as borne out by a stamped receipt attached to the bill. This contractor denies that either he or his brother supplied any clothing to the Hospital in September 1900; and a reference to the accounts kept by him only shows that he received Rs.187 and odd in that month on account of the supply of entirely different articles.

8. Some of the fair copies of the contingent bills contain stamped receipts taken from the contractor, but the amounts of these receipts do not correspond with the amount noted in the account books kept by the contractor.

9. From the statement of the present contractor (Khider Khan) it would appear that he was not in the habit of giving any receipts at all, but that in October last Dr. Fernandez and the accused Writer took his signature to four pieces of blank paper. This man identifies the receipts accompanying the detailed contingent bills for July, August and September 1901, and purporting to have been given by him, as written on the blank papers which he had signed.

10. It will thus be seen that the receipts submitted with the d.c. bills are not trustworthy and that none of them bears any marks of having been checked by the Civil Surgeon.

11. Again, the office copy of the d.c. bill for September 1895 contains many corrections. The numbers of diets and other items

(10) Thus, taking the bills separately from February 1901, the following discrepancies are found:-

February 1901: total of office copy is Rs.247-15-3, and that of fair copy Rs.747-15-3, or Rs.100 more, which was drawn.

March 1901: total as given in the original bill is Rs. 257-15-11, while the actual total of the several items is Rs.358-5-11. But the total in the fair copy is Rs.357-15-11, which was the amount drawn.

April 1901: total not mentioned.

May 1901: total not entered in the original; but actual total comes to Rs.374-0-10. Total of the fair copy is Rs.348-11-10, which was the amount drawn.

June 1901: total not noted in the office copy. Actual total is Rs.381-11-10, while that of fair copy is Rs 356-11-10. The difference includes an item entered as "Banniram Rs. 27"in the office copy.

July 1901: total given in original bill is Rs.384-11-7 while actual total comes to Rs.414-11-7. But the total in fair copy is Rs.354-11-7, the difference of Rs.30 being due to the omission of "Banniram Rs.30." in the fair copy.

August 1901: total in original bill is Rs.374-1-7, and actual total and that of fair copy Rs.378-7-5. Office copy includes such a large item as Rs.16-14--0 for stationery charges, not found in fair copy.

September 1901: total not noted, actual total Rs.243-5-8, against Rs.100 more shown as total of fair copy, chiefly under diet.

October 1901: totals in office and fair copies same; but there is some difference in certain of the

items, objectionable items shown in office copy being omitted in fair copy and replaced by fresh items.

November 1901: there is a difference of Rs.1-11-0 between the actual total of the office copy and the total of the fair copy.

December 1901: actual total of office copy is less by Rs. 1-8-0 than total as entered therein and in fair copy.

January 1902: the total of the office copy is Rs.6/- more than the items in it actually add up to.

February 1902: the office copy of bill is made up for Rs. 169-7-6, but the amount actually drawn was Rs.290-9-6.

Similar discrepancies occur in all the previous contingent bills.

Thus, the accounts for a period of 5 years and 2 months commencing from January 1897, which were available for examination, contain very serious alterations, additions and corrections, and show that every month there was overdrawing of contingent money.

The entries in the Inpatients' and Contingent Registers were ~~made by~~ attested by Dr. Fernandez without any scrutiny.

13. The subjoined extract shows the results of audit of the accounts of the Hospital so far as they were available.

The following are the irregularities observed in the office copies of the Detailed contingent Bills from January 1897 to the end of December 1901.

(1) In the bills of the marginally noted months, totals of the amounts for which the bills were made are not given.

(2) In all the bills except that for February 1901 which is entirely written up in pencil, the

1. 1897 April, May, June August, September & October.	6
2. 1898 June & July	2
3. 1899 August, September, November & December.	4
4. 1901 May, June & September.	3
Total	15

headings and particulars of the articles purchased are written in ink and other details relating to quantity rate, amount and total are written in pencil.

1. 1897 Janry. Febry. April July. Septr. & Novr. } 6
2. 1898. Janry. August. Septr. & October } 4
3. 1899 Febry to April & August — 4
4. 1900. June. Novr & Decb — 3
5. 1901. August & Novr — 2
Total 19

(3) In the office copies of the marginally noted bills, some of the pencil figures have been subsequently inked and some altered and written in ink.

(4) In the marginally noted bills, entries of additional articles are made at the end instead of under proper heads and places..

1. 1897. Janry Febry March July. Septr. Decbr. } 6
2. 1898 July, Septr & Decb. — 3
3. 1899. April & July — 2
4. 1900. Septr. & Novr — 2
5. 1901. Febry. May. June August to Novr } 7
Total 20

(5) In almost all the office copies of the detailed bills, quantities of articles purchased especially under diets and extras appear to have been originally entered according to the totals made in the original registers but subsequently altered evidently to raise the total amount.

Note

1. 1897 Febry. — 1
2. 1898 July, Oct & Decb — 3
3. 1899 Janry. to April & June to Decb } 11
4. 1900 June to Decb 6
5. 1901 Janry to Novr 11
Total 32

(6) In the marginally noted bills, contractor's signature has not been taken as was done in other bills.

1. 1898 April & May
2. 1899 August
3. 1900 June

(7) The marginally noted bills are not signed by any officer.

Note

(8) In the bill for May 1901, Rs.3-8-6 are charged for Mrs. Fernandez without details in support of the charge but in fair copy, the items is omitted.

(9) In the bills for June and July 1901, Rs.27 and Rs.30 are respectively charged for Banniram without any details in support of the charge but, likewise in their

fair copies, the items are omitted.

(1) 1897 - Jany to Octr - 10
(2) " 1898 Jany to July
Septr to Octr - 9
(3) 1901 May - 1
Total 20

(10) In the marginally noted bills, the rate for burying dead bodies is entered at Rs.2 per body whereas the bills of the remaining months show a rate of Rs.1-8-0 per body.

(11) In the bill for December 1898, a sum of Rs.9-12-3 has been charged for decorating purposes without noting the No. and date of the order authorising this unusual charge. This item is also omitted in the fair copy of the bill.

(12) In the bill for March 1900, Mr.C.A. Nanjappa has put a query in respect of 85 lb of rice "why is this?" which is left unanswered and in the same bill he has recorded a remark "Dont remember tar being used". This is also left without any explanation.

1. 1897. Jany & March - 2
2. 1898. Jany, Feby & Decbr. 3
3. 1896 Novr & Decbr - 2
4. 1897. January 1
5. 1898 August to Decbr 5
6. 1899 January - 1
7. 1901 Oct & Novr - 2
Total 20

(13) The totals of figures entered in the office copies are incorrect excepting in the marginally noted bills.

7. Looking into the fair copies of detailed contingent bills and comparing them with fair copies, the following points are noticed.

(1) The fair copy bills do not compare correctly with the office copy bills.

(2) The total amount entered in the fair copy bills tallies with the amount actually drawn on abstract contingent bills from the District Treasury expept in the bills for March 1898 in which a sum of Rs. 217-2-11 or 10 annas more than the expenditure accepted in the Comptroller's office is shown.

(3) The fair copies of the marginally noted detailed contingent bills are only duplicates. The originals were evidently missing as was the case in the months of October, November and December 1901 and January and March 1902.

8. The statement appended hereto gives the monthly expenditure:-

A. According to Hospital Registers,

B. According to contractor's accounts,

C. According to office copies of detailed contingent bills, and

D. According to fair copies of detailed contingent bills, and shows discrepancies existing among the several accounts.

21. The total amount for the 5 years and 2 months ending 28th February 1902 drawn over and above the actual expenditure is Rs.4,338-0-4 which is slightly less than the amount calculated from the Registers.

Para 22 referred to in the Memo is appended.

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14. The irregularities noted above are very serious. There is no doubt that misappropriation of Government money to the extent of at least Rs.4338 has been going on unchecked for several years; and it can hardly be believed that the Hospital Writer could have done so with impunity for such a length of time without the connivance and support of Dr. Fernandez.

15. The remarks of the Sessions Judge in paras 13, 16, 17, 19, 28, 29, 31, and 38 of his judgment, are damaging to Dr. Fernandez,

and also require explanation on his part.

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" Copy "

H. Macpherson

Secretary.

22. The Abstract-Statement given below shows the details

Year	Amount as per original bill and contingent Registers			Actual pay-ment made to the contractor and others			Amount actually drawn from Treasury			Difference of Cols 2 & 4			Difference of Cols 3 & 4			Remarks
1	2			3			4			5			6			
Jany. to June 1897	774	-	7	774	-	7	979	11	2	205	10	7	205	10	7	Note. The accounts were examined with the abstract and vouchers by Sri Kanakayya and Pillai in Mem & Remarks Ramanna Rao.
July to December 1897	1198	2	5	1196	3	1	1390	13	2	192	10	9	194	10	1	
1898	2493	10	10	2490	10	4	2994	3	10	500	9	-	503	9	6	
1899	2458	2	10	2508	-	6	3144	3	4	686	-	6	636	2	10	
1900	2996	13	7	3011	14	10	3852	3	7	855	6	-	840	4	9	
1901	2449	-	4	2466	8	-	4146	11	5	1697	11	1	1680	3	5	
Jany & Dec. 1902	373	8	11	373	8	11	651	-	1	277	7	2	277	7	2	
Total	12743	7	6	12820	14	3	17168	14	7	4415	7	1	4338	-	4	

(Sd) K. Narsimiengar

Revenue Head Assistt

Kadur Divisional Office

10th Sept 02

Abstract of the Charges against Dr S.A.Fernandez, and of the Explanations furnished by him.

General explanation:--

I admit carelessness on my part and lack of supervision under palliating circumstances. Multifarious duties -- viz. charge of two planting districts, and of District Lockup, inspection of hospitals and numerous dispensaries, and calls from planters at remote distances,-- especially with cholera and plague, did not give me much leisure for attending to routine office work. I had necessarily to place a great deal of trust in the writer. There was only one Writer; the rest professional men, whose legitimate duty is to attend to professional work. I had no occasion to suspect the accused of malpractices. He embezzled money not only in my time, but also when Dr Ramaswamiengar and Messrs T.S. and C.A.Nanjappa were acting for me (Vide Judgment,paras 35, 36). When he did this without the knowledge of Mr T.S.Nanjappa, why could he not have played the same trick with me ? In his first two confessions (Exh.H and M) Accd has not implicated me; and he refused to sign the third one which mentioned my name. These have not been considered by Sessions Judge. I have enemies at Chikmagalur, including Coffee-planter C.Srinivasa Rao and Headwriter Staggs. There was a hostile meeting of lawyers after complaint was filed. The Police also acted unfairly towards me, wanting to parade all my irregularities as if I was the accused. Thus there was a powerful combination interested in getting up evidence against me.

Accused's assertion that his overdrawal of Rs.121 odd in March 1902 was under instructions from Dr F, and on his assuring him of his return to hospital charge before end of month.

Absolutely false. Writer knew I had been transferred to Mysore for six months. Far from having had any idea of returning to Chikmagalur, I applied to be retained at Mysore or transferred to Bangalore.

Accused's assertion that the said amount was paid to Dr F at Chikmagalur on 28th March 1902.

I emphatically deny the assertion, which is also contradicted by Ex.6, in which accused stated that he paid Rs.75 to some shopkeepers on account of my bill and retained the balance.

Slips purporting to be demands for money, and letters showing more than ordinary familiarity, produced by accd.

I was in the habit of leaving a portion of my pay with the writer every month for household expenses. The reference to monetary transactions related solely to my private money, and not to moneys overdrawn by accd. He has himself confessed this by saying in the Sessions Court that "occasionally during his (Dr F's) absence he used to leave with me 50 or 60 Rs for meeting his private expenses," and that the chits and letters (Ex.12 to 41) "were addressed to me by Dr F that I might pay his private bills etc from the deposit of 50 or 60 Rs that he used occasionally to make." The very fact of my having sent these open slips shows my innocence, unless it can be supposed I was intentionally preparing a rope to put round my neck; and his preserving these admittedly harmless slips for the last so many years shows he had long contemplated a defence against his malpractices.

Of the other four letters, Ex.7 is a letter intimating that I would send my batta bill to be cashed. In Ex.11 I sent a paltry sum of Rs.30 in my niece's name

for a sadi to be presented to the writer's daughter at her wedding: in this nothing strange or unusual. The letter without date (Ex.9) was written in the ordinary course; no undue familiarity in it, as I had not then the slightest idea that the writer had in any way swindled Govt money. Ex.10 was writtento accused as soon as I heard from Mr Nanjappa by letter about alterations; it was written to save time, as I could not afford to stop more than a day, and had private work besides. I asked him therefore to have books, bills, etc., ready at the Travellers' Bungalow where I was staying. Nothing objectionable or familiar in this.

Dr F knowingly got inaccurate copies of detailed contingent bills for the months of Oct. Nov, Dec.1901 and Jany 1902, prepared.

When I saw Mr Nanjappa at Chikmagalur, he said that the Senior Surgeon had sent an urgent requisition for duplicate copies of the four bills, and that, as he had by mistake replied to having sent them already, he was afraid of being censured, and he wanted me to take the cover containing the bills and hand it over to the Manager on my way to Mysore. The office co ies of the bills contained some alterations and erasures. As I had myself no time, and was not in charge, I asked him to send for Abstract contingent bills, examine the hospital accounts, and report to Senior Surgeon. Mr N promised to do so, but wanted in the meantime to have the duplicate copies made and sent to S.S. The books and papers were ~~accordingly~~ sent to the Tr.Bungalow under Mr N's directions; and true copies of the office copies were ordered by Mr Nanjappa and myself (not by myself specially) to be prepared; they were so prepared by the accused and the Hospital Asst; and Mr N was himself present at the time (Vide his evidence and that of Hosp Asst).

He got the same signed by Mr T.S.Nanjappa under false assurances.

Mr. N. himself does not say that I gave any false assurances. On the contrary, he has deposed that he signed the duplicate copies with the knowledge that they did not tally with the registers. He therefore knew the duplicate copies to be inaccurate when he signed them, i.e. that they did not compare correctly with the registers but were believed to be true copies of office copies. Such knowledge on his part negatives the assumption that he signed them under false assurances. He wanted to comply first with the S.S.'s urgent requisitions for duplicates merely and then enquire into the matter: if he did not want to do this, he would have to write at once to the S.S. that he could not send them as there were alterations: he adopted the former course.

He introduced them into the Senior Surgeon's Office knowing them to be false.

Mr. N. and myself thought the copies at the time to be <u>inaccurate</u> merely (as not tallying with the registers), and not as <u>false</u> bills. Compare Mr. N's own evidence that he did not suspect any overdrawal, and merely noticed some alterations in the office copies of d.c. bills and registers. Nor was I aware of any overdrawal. In the absence of office copies of abstract c. bills (which are not kept), there was nothing to show that any money had actually been overdrawn.

It is clear that he became aware of the serious irregularities connected with the bills, but took no action to get the offender punished

Requisitions from the S.S's Office for duplicates, either not received or missing, were not uncommon; and the one under advertance did not in itself create any special suspicion or alarm.
My reason for not taking immediate action against the writer until 17th April 1902 (on which date I made a report to the S.S.: Ex.AAB), was that I awaited the result of Mr. N's enquiry, he being then in charge of the District.

Dr F's assertion, that his visit to Chikmagalur in March 1902 was not on account of the said d.c.bills, but to look after private affairs etc., and that he delivered the fair copies to the Manager of the Senior Surgeon's Office at special request of Mr Nanjappa, --- contradicted by the latter's statement.

I did not say that my visit was quite unconnected with these copies. What I stated was that I went to Chikmagalur both for my own work and because Mr N wanted me. In this, therefore, I am not contradicted by him.

As regards the other fact, my assertion is true, and Mr N has not adhered to the truth. The Senior Surgeon had asked for tappal book also: Mr N was very solicitous that he should not be pressed for it, which is evident from his not having alluded to it in his reply to the S.S. The reason for his specially requesting me to deliver the cover personally was that I should speak to the Manager not to press for the tappal book. In valuing Mr Nanjappa's evidence, his being in the same boat with me, though in a smaller degree, should be borne in mind.

Inclusion of private purchases and other objectionable items. Enhancement of diets etc. Variations between office and fair copies of detailed contingent bills. Alterations under quantities and amounts showing overdrawal of contingent money. Accused alleges that all these were made under Dr F's instructions and generally in his bungalow.

I deny having authorised the writer to include my private purchases, or that he did so with my knowledge; or that any bill or return was prepared in my bungalow, or any corrections made under my instructions.

If I was a party to the fraud, the objectionable items noticed would not have appeared; there would have been no variations between the fair and office copies; no occasions for corrections etc under a preconcerted arrangement of details.

I admit carelessness on my part: I trusted the writer a great deal too much, and without scrutiny signed d.c. bills. Perhaps very few heads of offices scrutinise such bills placed before them in the ordinary routine of office work. In most cases the draft bills were altered after my initials were obtained; and when fair copies were placed before me for signature, I naturally thought they were correct copies of the drafts as initialled. The writer used to bring papers and bills ~~for~~ when my hands were full of work: I never noticed these objectionable items when I initialled them, nor did I pass any such items. He also cleverly managed to get signatures of other officers during the moments when they were ~~least~~ least likely to spare time for checking the bills. The very fact of some of the items being extremely objectionable shows I could not have been cognisant of them. They may have been inserted subsequently.

Such of the alterations etc. as may not be in my writing must be the doing of the accused, of which I know nothing. He is alone responsible for them.

He has done this not only in my days, but in those of other officers also. Several of the bills have not been signed by me.

The enhancement of diets could have been checked by reference to the Diet rolls sent every month to the Senior Surgeon's Office; but it appears that, in order to conceal his misappropriations, the writer had not been sending them. (Note: the S.S.says that the diet rolls <u>are</u> being received.)

D.C.bills with incorrect totals have been approved of. In bill for Sept.1895 both total and some of the corrections are in Dr F's hand, showing knowledge on his part.

I had not the time to see to correctness of totals, so relied on writer's statement. For anything I know he may have altered totals after obtaining my signature.

The bill for Sept is not before me. Red ink corrections in it must be mine, and must be proper corrections to lessen the amounts. Any corrections to enhance amount must be by accused. I never totalled figures of any bills, so the total of this one could not be in my handwriting.

Accounts of Banniram show purchases of cloth by Dr F in June and July 1901 for Rs.57 odd. The office copies of the d.c.bills for same months show entries of Rs.27 and 30 against Banniram. Two bills found in office records, one bearing corrections in Dr F's hand.

These are undoubtedly my private bills, and were settled with my private money. If I had used Government funds, not likely that I would have preserved the bills, or kept them among Govt records. Having noticed certain overcharges in articles and prices, I corrected some of the items in the bill.

Misappropriation of money from sanctioned clothing indent in Sept 00; amount drawn Rs.488½ against actual expenditure of Rs.102 odd only, acc. to Sheraji's account. And purchase expressed in stamped receipt to have been made through hospital contractor, who however denies supplying any clothing to hospital inthat month.

It was not the late contractor, but his brother (who has not been examined), that procured the articles and signed the receipt. The latter brought some Marwari merchants, from one of whom articles worth Rs.102 were bought; and as the remaining articles were not available at Chikmagalur, the contractor's brother offered to procure them from Bangalore etc. on payment of balance of the money. Hospital contractor, who was fined and dismissed by me, is a hostile witness; and as the purchases were not made through him, his account book cannot show the sale of the bedding and clothing.

The hospital Stock-book (which was purposely not produced by the Police) will show all the articles purchased : they consisted of a large number of ordinary

sadies worth Rs.1½ or 2, common bed sheets for patients, many yards of Turkey red cloth for patients' puncheys, and common white drill for patients' coats and caps. If the Judge had taken the trouble to know their nature, he would not have said that they were bought for my private use.

Contractor Khidar Khan stated that in October 1900 (?) Dr Fernandez and the Writer took his signature to four pieces of blank paper, which afterwards figured as receipts annexed to the bills for certain months.

This is a Police invention. Khider Khan has not stated either in the Magistrate's or in the Sessions Court that I took his signature to any pieces of blank paper.

Receipts not trustworthy.

It was the writer who obtained all the receipts, as he had been entrusted with the duty of making all disbursements. He must account for any difference. I never used to examine them. He was not bringing them to me for initials.

Several D.C.bills not forthcoming.

They must have been removed by the writer to his house and concealed.

Certain bills not signed.

This must be because accused did not bring them for initials. Of the bills referred to, two were omitted to be signed by Mr T.S.Nanjappa who was then acting.

Portions of certain bills (office copies) written in pencil.

When I remarked to the writer about these pencil entries, he said he would go through the bills again after my initialling them, in order to verify that he had not made any accidental errors; with this explnation I was satisfied at the moment.

Entries in Inpatients' and Contingent Registers attested by Dr F without scrutiny.

Not the practice to attest Inpatients' Registers. The entries in Contingent Registers are made by Hospital Asstt in charge of wards, and daily signed by Asstt Surgeon, and only occaionally, during the latter's absence, on the assurance of the Hospl Asst by the Civil Surgeon, who signed weekly.

In bill for March 1900 Mr C.A.Nanjappa has entered queries against certain items; these have not been explained.

This was Mr Nanjappa's bill, and he should have pursued the enquiry and taken action, as he remained in charge in April and May also.

Misappropriation of Govt money to the extent of at least Rs.4338 has been going on unchecked for several years.

I had no knowledge of any money being overdrawn by accuded during my tenure of office. Out of this sum, Rs.279 odd was overdrwan in Mr T.S.Nanjappa's time, and Rs.197 in that of Mr C.A.Nanjappa; the rest in mine.

Sessions Judge's damaging remarks.

The Judge has gone out of his way in writing a criticism on the laxity in the Department, quite foreign to the issue before him. Most of his observations regarding me were very unfair. He was not justified in inserting insinuations against my character from the atatements of the accused alone and other persons examined behind my back.

Paras 13& 14 of judgment. Accused's statement that the contractor used to be induced by Dr F to give any vouchers that might be required to support false bills.

Accused's statement is perfectly uncorroborated by any reliable evidence; neither the former nor the present contr ctor supports the allegation about vouchers.

Para 17: procedure adopted by accused with regard to bill for expenses of Feby 1902 differed from his usual manipulations of the d,c. bill, reason being change of masters from Dr F to Mr T.S.N.

These remarks, ~~if~~ based on the assumed differences in our respective character, are due to the Judge's unfair assumption of my guilt, and to the misconception that the bill was prepared by the accused; whereas the latter was on short leave: the Hospital Asst may have prepared the d.c.bill and the writer afterwards written up the A.C. bill.

Paras 28, 29 & 38. Scathing remarks about irregularities and laxityof supervision.

The Judge seems to have thought that Civil Surgeon was merely in charge of the Account and Cash departments, without realising his more important and responsible duties as a Medical officer.

Concluding appeal to Government:

If I had been a party to fraud, evidence of a tangible and direct nature would have been forthcoming; especially with enemies and Police hostility.

Colonels McGann and Benson know that I have often wished for a transfer, which I would not have done if I had such a prolific source of income, almost permanent

I beg Government to consider position of my family, private means, special status as senior Civil Surgeon, large salary and private practice, and the improbability of a man of my position and service stooping to dishonorable acts which would place him at the mercy of his subordinates.

Note re Dr. Fernandez.

I have already recorded my opinion in this case. This morning, however, in deference to the views of the Dewan and the First Councillor, I agreed to the proposed recommendation regarding the appointment of a Commission. After some discussion as to the constitution of the Commission, it was settled that Mr. Justice Rungaswamiengar be appointed sole Commissioner. I was not quite satisfied with this and I have since given the question my most anxious consideration. It seems to me that the Commission should be a strong one and that there ought to be on it a high officer of the Department to which Dr. Fernandez belongs. Col. Benson has already formed his opinion and may not therefore wish to be on the Commission. The next officer of the Medical Department is Col: Smyth. He and, if necessary, a third member in the person either of Mr. Purnaiyya or of Mr. S. R. Subrayer or of Mr. Manjundaiyya may be appointed. If there is to be a Commission, it ought, in my humble opinion, to consist of at least two members. A single Commissioner, however estimable he

he may be, does not seem sufficient.

Arlington

16/17/4/03

Submitted to His Highness -

The facts of the case & my views about them are re-corded fully in my note of 18th March - The Councillors have also recorded their opinions the matter was also fully discussed in Council and the opinion formed is as follows:-

" The appointment of a Commis-sion of enquiry into the charges, and the appointment of one sole Com-missioner, viz A. Rangasamiengar, Judge of the Chief Court, recommended."

Since then the II Councillor has sent another note marked G. A commission of more than one member may be more convincing than of one alone - but if two are constituted as Commissioners the Govt must be prepared to face the awkward possibility of a difference between them. All these aspects were discussed in Council A sole Commissioner would seem

SECRET EYES ONLY

to meet all the requirements of the case — and there can be no objection to appointment that is to say ~~to~~ arrangements ~~for~~ Messrs. President — and ~~[illegible]~~ ~~[illegible]~~ Messrs. Chiles as members.

21. IV. 53

Will.

Record of Case submitted for the orders of His Highness the Maharaja.

(5)

Subject.

575

9786/17.4.03

Appointment of a Commission to enquire into the charges against Dr. A. S. Fernandez, Civil Surgeon in connection with the misappropriation of Contingent money by the writer of the Chikkamudgalur Dispensary.

Order.

The Course adopted in this case is highly inconvenient. A unanimous decision is arrived at by Council. Subsequently one of the Councillors wishes to modify his decision. The other Councillor is not so far as I can see consulted at all, & the Case is sent on to me with an opinion from the Dewan entirely differing from that of Council. I cannot accept this. The case should be discussed again in Council. If the 1st Councillor accepts the new proposal well & good. If he does not his reasons should be recorded. Is not Mr. Rungaswami Iyengar already on the Parakala Swamis Commission? If so is it not hard to put him on this one also? I do not think that Mr. Hanjundappa ought to be given extra work.

25/4/03

Send this to the 1st Councillor for his views recorded on the note of the IInd Councillor.

27.IV.03

I think what his Highness Commands is a discussion in Council & not another opinion from me.

2/5/1903

600
28.4.03

29/4

R. 2/5/03
Camp Only.
C 252

(6)

Extract from the Proceedings of the Council of His Highness the Maharaja Conducted at the 16th meeting of the Council held at Bolacamund on Saturday the 9th May 1903

I Subject (clause V of Schedule)

Appointment of a Commission of Enquiry into the Case of Dr. A.S. Fernandez Civil Surgeon.

Opinions of the Dewan & Councillors

Mr. A. Rangaswamy Ayengar, may, as originally recommended by His Highness the Maharaja be the Sole Commissioner, his being a member of the Parakala Mutt Committee not necessarily interfering with this work.

* * * * * * *

Asst. Secretary.

Submitted to this Assembly -

The Councillors have adhered to the opinion that Mr Ranga Swamy Iyengar ought to be made the sole Comm: and that his employment on the Parkali Melt Committee may not interfere with his present work This is my opinion also.

I beg respectfully to be permitted to explain that when submitting this matter on the last occasion I gave my opinion strictly in conformity with the opinions of the Councillors formed at the meeting - I felt bound however in the note received afterwards from the Hd Clerk and to append my observations on it - Even then I expressed myself clearly in favour of a sole Comm: and only added that if a plurality were deemed necessary the number should be more than two. Such a course was not objectionable - I am sorry I did not make

myself properly understood
and so much inconvenience
was caused by this slip —

11. V. 03

Louis?

Record of Case submitted for the orders of His Highness the Maharaja.

(8)

Subject.

587

Resubmitting papers connected with the proposed enquiry into the charges against Doctor Fernandez.

Order.

69
14/5/03

I misunderstood the Dewan's note. I still think that the Course adopted of sending on a note by one Councillor modifying his opinion expressed in Council is inconvenient, & I consider that in such a case the matter should be further discussed in Council before submission to me.

~~KRM~~

13/5/03

His Highness accepts the recommendation that there shall be one Commissioner. N. Rangachariyar Iyengar

14/5

order awaiting draft-carried

14. V. 03

17/5/03

The draft order is submitted for approval.

18/5/3

The Dewan through the 2nd Councillor

20.5.03.

C. 19/5
Rd. 19.5.03

Confidential 29/5/03

(9)

Proceedings of the Govt.
of His Highness the Maha-
-raja of Mysore.

Order No. 16998-7000.
Mis 2672 dated
Camp Bangalore, 29th
May 1903.

In connection with
a long series of irre-
-gularities and defal-
-cations in the Chick
-magalur Hospital, the
Civil Surgeon Dr. A.S. Fer-
-nandez's case has come
under the notice of
Government - A Memo
of points to be explain-
-ed by him was sent
to him and his expl-
-planation has been
received - But in his own
interests as well as in
those of the public, the
Government of His

(X) (No. 5355 dated 3.10.02
Mis 820)

Highness the Maharaja considers that a further enquiry is desirable -

This enquiry will be held by a Special Commissioner and an opportunity will be given to Dr. Fernandez of hearing and cross examining the witnesses cited against him and of adducing any evidence on his behalf - He will be permitted to engage the services of an Advocate, to conduct his defence -

His Highness the Maharaja is pleased to appoint Mr. Justice A. Rangasamiengar, Judge, Chief Court of Mysore, as Sole Commissioner for the purpose of trying these charges - He will hear

all the evidence (oral and documentary) that may be adduced on both sides, or may be called for by himself, and submit for the final orders of Govt a record of the case with his findings on all the questions raised, as early as he can, after the conclusion of the trial. ~~for the final order of Government~~

The Commissioner will also favor the Government with his opinion as to the extent, if any, to which Dr. Fernandez is liable, morally, criminally, pecuniarily or otherwise.

The principal Charges to be enquired into are mentioned in the appended Memo. ~~hereunder~~ and ~~that~~ the Commissioner is

empowered to add any more, which to him may appear necessary, or alter any of them as the enquiry before him proceed :-

(1) According to the Chikmagalur Hospital Writer Krishnu Row, ~~accused~~ his overdrawal of Rs 121 and odd in March 1902 was under instructions from ~~Doctor~~ Dr Fernandez, and the amount was paid to the latter when he came to Chikmaglur on the 28th Idem. In support of this allegation and of the monetary relations existing between them, Krishnarao ~~the accused~~ has produced slips purporting to be demands for money, and also letters showing more than

Contractor used to be induced by Dr Jenner-dez to give any vouchers that might be required to support false bills.

(14) Irregularities & laxity of supervision

In case legal assistance is deemed necessary to conduct the prosecution, it may be secured and the cost thereof reported for the sanction of Government -

The Senior Surgeon and the Sanitary Commissioner and the Deputy Commissioner and District Magistrate, Kadur, will be good enough to afford the Commissioners such assistance

as he may ask for -

A Special Secre-
-tariat Officer will be
deputed to be under
the orders of the Com-
-missioner for perform-
-ing ministerial and
other duties in connect-
-ion with this Case.

27/5/23
Secretary.

To.

The Registrar of the
Chief Court for the in-
-formation of the Chief
~~Court~~ Judge who will kindly
arrange to depute Mr
Justice Ramaswamiyar,
for this Special work
and for communication
to Mr Justice Ramas-
-wamiyar. The papers
available here are also
sent herewith.

(2) The Senior Surgeon and Sanitary Commissioner, with reference to his confidential D.O. letter dated 7th December 1902 and for communication to Dr. Fernandez.

1959
21.V.53

(3) The Deputy Commissioner and District Magistrate, Kadra Dt.

Print
Press copy made
Cs. 29/V
Dr. Fernandez
II
23.V.53

Is a long order of this kind really necessary ? Would not a much shorter ~~one~~ as below be sufficient ?

" In connection with a long series " of irregularities and defalcations in " the Chikmaglur Hospital, the Civil " Surgeon, Dr. Fernandez's case has " come under the notice of Government. " A Memo was sent to him and his expla- " -nation has been received. In his " own interests as well as in those of " the public, the Government of His " Highness the Maharaja consider that " a further enquiry is desirable. Mr. " Justice Rungasamiengar is appointed " Commissioner. Government desire that " Mr. Rungasamiengar will go into the " case fully and favor them as early as " possible with his opinion as to the " extent, if any, to which Dr. Fernandez " is liable, morally, criminally, " pecuniarily or otherwise. The Com- " missioner will conduct his proceedings " in such manner as he may deem proper, " the main points being that all papers " should be perused, all important " witnesses examined and Dr. Fernandez " personally questioned.

" 2. In case legal assistance is deemed "necessary, it may be secured and the " cost ~~[redacted]~~ thereof reported for " the sanction of Government.

" 3. The Senior Surgeon and Sanitary " Commissioner and the Deputy Commis- " sioner and District Magistrate, Kadur, " will be good enough to afford the

This enquiry will be held by a Special Commissioner and an opportunity will be given to Dr. Fernandez of hearing and cross-examining the witnesses cited against him and of adducing any evidence on his behalf. He will be permitted to engage any Advocate he likes to conduct his defence.

(Para 4 of the draft)

The Commissioner will also frame the issue with his opinion

The charges to be enquired are mentioned hereunder, and the Comr. is empowered to add any more

which Whom may appear
or alter any of them.
necessary, as the Enquiry
upon them proceeds -

" Commissioner such assistance as he
". may ask for."

A Special Secretariat Officer will be deputed who under the orders of the Commissioner for working hours case performing the miscellaneous & other duties in connection with this case —

Secretary.

To

The Registrar of the Chief Court for the information of the Chief Judge who will kindly arrange to depute Mr. Justice Rangasamiengar for this special work, and for communication to Mr. Justice Rangasamiengar. The papers connected here are herewith sent —

To

The Senior Surgeon and Sanitary Commissioner with reference to his No. and for communication to Dr. Fernandez.

To

The Deputy Commissioner and District Magistrate, Kadur Dt.

Urgent —

To the Dewan Sir.

20/5/03

1902-03 (9)

GOVERNMENT OF MYSORE

GENERAL

PROCEEDINGS

Dated 29th May 1903

No. 16998-17000
Mis. 2622

Ordering the appointment of a commission to enquire into and report on a long series of irregularities and defalcations in the Chikmagalur Hospital, and the extent of the liability, if any, of Dr. A. S. Fernandes in that connection.

SBP—1-6-03—200

No. 16998-17000—Mis. 2622, DATED BANGALORE, 29TH MAY 1903.

ORDER.—In connection with a long series of irregularities and defalcations in the Chikmagalur Hospital, the Civil Surgeon Dr. A. S. Fernandes' case has come under the notice of Government. A Memo (No. 5355—Mis. 820, dated 3rd October 1902) of points to be explained by him was sent to him and his explanation has been received. But in his own interests as well as in those of the public, the Government of His Highness the Maharaja consider that a further enquiry is desirable.

This enquiry will be heard by a Special Commissioner, and an opportunity will be given to Dr. Fernandes of hearing and cross-examining the witnesses cited against him and of adducing any evidence on his behalf. He will be permitted to engage the services of an Advocate, to conduct his defence.

His Highness the Maharaja is pleased to appoint Mr. Justice A. Rangasamiengar, Judge, Chief Court of Mysore, sole Commissioner for the purpose of trying these charges. He will hear all the evidence (oral and documentary) that may be adduced on both sides, or may be called for by himself, and submit for the final orders of Government the record of the case with his findings on all the questions raised, as early as he can, after the conclusion of the trial.

The Commissioner will also favor the Government with his opinion as to the extent, if any, to which Dr. Fernandes is liable, morally, criminally, pecuniarily or otherwise.

The principal charges to be enquired into are mentioned in the appended Memo, and the Commissioner is empowered to add any more, which to him may appear necessary, or alter any of them as the enquiry before him proceeds.

In case legal assistance is deemed necessary to conduct the prosecution, it may be secured and the cost thereof reported for the sanction of Government.

The Senior Surgeon and Sanitary Commissioner with the Government of Mysore and the Deputy Commissioner and District Magistrate, Kadur, will be good enough to afford the Commissioner such assistance as he may ask for.

A special Secretariat officer will be deputed to be under the orders of the Commissioner for performing ministerial and other duties in connection with this case.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Depts.

To—(1) The Registrar of the Chief Court, for the information of the Chief Judge, who will kindly arrange to depute Mr. Justice Rangasamiengar for this special work, and for communication to Mr. Justice Rangasamiengar. The papers available here are also sent herewith.

(2) The Senior Surgeon and Sanitary Commissioner with the Government of Mysore, with reference to his confidential D. O. letter, dated 7th December 1902, and for communication to Dr. Fernandes.

(3) The Deputy Commissioner and District Magistrate, Kadur District.

General, dated 29th May 1903.

Memo of Heads of Charges.

According to the accused writer Krishna Rao, his overdrawal of Rs. 121 and odd in March 1902 was under instructions from Dr. Fernandes, and the amount was paid to the latter when he came to Chikmagalur on the 28th idem. In support of this allegation and of the monetary relations existing between them, the accused has produced slips purporting to be demands for money, and also letters showing more than ordinary familiarity, addressed to him by Dr. Fernandes.

Dr. Fernandes caused inaccurate copies of detailed contingent bills to be prepared for the months of October to December 1901 and January 1902, got his *locum tenens* Mr. T. S. Nanjappa to sign them under false assurances, and then introduced them into the Senior Surgeon's office, knowing them to be false.

He became aware of the serious irregularities connected with the bills, and yet took no action to get the offender punished.

Private purchases and other objectionable items used to be included in the Dispensary contingent bills; diets, etc., were fraudulently enhanced; there were variations between the office and fair copies of detailed contingent bills; alterations were made under quantities and amounts, leading to overdrawals of contingent moneys—all of which, the accused alleges, were done under Dr. Fernandes' instructions.

Certain detailed contingent bills with incorrect totals have been approved of.

The accounts of a local trader named Banniram show purchases of cloth for Dr. Fernandes' use in June and July 1901 for Rs. 57 and odd, while this amount has been included in the office copies of detailed contingent bills of the same months; and two bills in connection with the same transaction have also been found in the Dispensary records.

There has clearly been a misappropriation of money in connection with a clothing indent sanctioned for Rs. 48$\frac{1}{2}$ in September 1900, but the actual expenditure on which was only Rs. 102 and odd as shown by Marwari Sheraji's account.

The receipts submitted with detailed contingent bills are not trustworthy.

Several detailed contingent bills are not forthcoming.

Portions of certain bills have been written in pencil.

Entries in the in-patients' and contingent registers have been attested without scrutiny.

Misappropriation of Government money has been going on unchecked for several years, and the total is at least Rs. 4,338.

The accused states that the Hospital contractor used to be induced by Dr. Fernandes to give any vouchers that might be required to support false bills.

Irregularities and laxity of supervision.

Exd.—C. V.

No. 16998-17000—Mis. 2622, DATED BANGALORE, 29TH MAY 1903.

ORDER.—In connection with a long series of irregularities and defalcations in the Chikmagalur Hospital, the Civil Surgeon Dr. A. S. Fernandes' case has come under the notice of Government. A Memo (No. 5355—Mis. 820, dated 3rd October 1902) of points to be explained by him was sent to him and his explanation has been received. But in his own interests as well as in those of the public, the Government of His Highness the Maharaja consider that a further enquiry is desirable.

This enquiry will be heard by a Special Commissioner, and an opportunity will be given to Dr. Fernandes of hearing and cross-examining the witnesses cited against him and of adducing any evidence on his behalf. He will be permitted to engage the services of an Advocate, to conduct his defence.

His Highness the Maharaja is pleased to appoint Mr. Justice A. Rangasamiengar, Judge, Chief Court of Mysore, sole Commissioner for the purpose of trying these charges. He will hear all the evidence (oral and documentary) that may be adduced on both sides, or may be called for by himself, and submit for the final orders of Government the record of the case with his findings on all the questions raised, as early as he can, after the conclusion of the trial.

The Commissioner will also favor the Government with his opinion as to the extent, if any, to which Dr. Fernandes is liable, morally, criminally, pecuniarily or otherwise.

The principal charges to be enquired into are mentioned in the appended Memo, and the Commissioner is empowered to add any more, which to him may appear necessary, or alter any of them as the enquiry before him proceeds.

In case legal assistance is deemed necessary to conduct the prosecution, it may be secured and the cost thereof reported for the sanction of Government.

The Senior Surgeon and Sanitary Commissioner with the Government of Mysore and the Deputy Commissioner and District Magistrate, Kadur, will be good enough to afford the Commissioner such assistance as he may ask for.

A special Secretariat officer will be deputed to be under the orders of the Commissioner for performing ministerial and other duties in connection with this case.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Depts.

To—(1) The Registrar of the Chief Court, for the information of the Chief Judge, who will kindly arrange to depute Mr. Justice Rangasamiengar for this special work, and for communication to Mr. Justice Rangasamiengar. The papers available here are also sent herewith.

(2) The Senior Surgeon and Sanitary Commissioner with the Government of Mysore, with reference to his confidential D. O. letter, dated 7th December 1902, and for communication to Dr. Fernandes.

(3) The Deputy Commissioner and District Magistrate, Kadur District.

Office - draft

Read:—

(1) The Judgment of the Sessions Judge of Hassan in Kadur Sessions Case no 1 of 1902-03 (Govt Vs J. Y. Krishna Rao. a writer in the Chikkamagalur Civil Hospital)

(2) Govt Order no. 5355 of dno: 820 3rd October 1902, calling upon Dr A. S. Fernandez to furnish his explanation upon certain points.

(3) Letter dated 7th December 1902 from the Senior Surgeon with the Govt of Mysore forwarding the explanation of Dr. Fernandez, with his own remarks thereon

(4) The Judgement of the Chief Court in Criminal appeal no. 79 of 1902-03 by J. Y. Krishna Rao against the Conviction & Sentence passed by the Sessions Judge of Hassan

Order

" cannot object to the draft but I would prefer the one I have myself made and herewith attached — Either may please the Dewan 20/12/03. Dec 21 — A. The Dewan.

Order thereon:—

In the course of the trial
of Krishna Rao on charges
of ~~to~~ forgery, &
framing incorrect ~~office~~ records in connection with certain
~~of, and altering the figures in~~
detailed Contingent bills
of the Chikkanagalur
Civil Hospital with intent
to cause loss to Govt, and thereby
criminally misappropriating
Sums exceeding Rs 400, various
facts were elicited tending ~~generally~~
to place the management
of the Hospital (generally) and ~~in~~
~~particular~~ the conduct
of the presiding Civil Surgeon
(Dr A. S Fernandez) in particular in respect
of the expenditure of Contingent
moneys, in an ~~most~~ unfavourable
light. The Judgment of
the Sessions Judge also contained
damaging comments on the
laxity of Supervision and on certain
irregularities & procedure
on his part. The accounts
and registers of the Hospital

were separately subjected to a searching examination, with the result that ~~which~~ ~~there was disclosed~~ a series of irregularities pointing to systematic misappropriation of Govt money to the extent of at least Rs. 4,338 during a period of several years. These circumstances raised the suspicion either of connivance or of culpable neglect on the part of the Civil Surgeon.

2. The chief points on which the conduct of Dr Fernandez required explanation were mentioned in a memorandum, a copy of which was furnished to him ~~[illegible]~~ with the Govt order of 3rd october last and he

was called upon to furnish
his explanations on them.
That explanations ~~were~~ has since been
submitted by him in his
~~Note book~~ Letter dated 20th
and 22nd ~~inst~~ now here-

3. On a careful consideration
of ~~the~~ the facts and explan-
-nations before them, the
Govt of H. H. the Maharaja
find that ~~they cannot~~
~~exonerate the Civil Sur-~~
~~-geon, Dr. Fernandez, of~~
~~all the charges prima~~
~~facie disclosed against~~
~~him. It is to be observed,~~
~~however, that~~ Dr. Fernandez ~~has~~
~~has not been put per-~~
-sonally on his trial on
the his charges, that
the matter of his conduct
was only a side issue
in the criminal case
against the clerk of the
Hospital, and that (as
observed in the judgment
of the Chief Court on appeal)

~~the Civil Surgeon had~~

had no opportunity (in the Sessions Court of Hassan) to meet the (~~slanderous~~) accusations brought against him. The Govt therefore consider that the fairest and most satisfactory course of disposing of this matter is to direct that the charges against Dr. Fernandez be inquired into by a Special Commissioner appointed for the purpose, and that an opportunity be given him of hearing and cross-examining the witnesses cited against him, and of adducing any evidence that he wishes to be heard on his behalf. ~~A Special Officer or Advocate will be engaged to Conduct~~

the case on behalf of Govt: and Mr. Fernandez is at liberty to engage such Counsel for the defence + as may be empowered to appear in cases conducted before the Chief Court.

as he thinks fit.

4. H.H. the Maharaja is pleased to appoint Mr. Justice A. Rangaswamiengar, Judge, Chief Court of Mysore, as a Sole Commissioner for the purpose of trying these charges. He will hear all the evidence (oral and documentary) that may be adduced on both sides or may be called for by himself, and submit the record of the case with his findings on all the questions raised, as early as he can, after the conclusion of the trial, for

the final orders of Govt

Secretary

(?)

5. A Special Officer will be deputed ~~and~~ or an Advocate engaged to Conduct the Case on behalf of Government; and Dr. Fernandez is at liberty to engage such Counsel as he considers necessary to aid him in his defence.

To.
Hon Justice A. Rangaswamaiyar
~~Esqr~~
Judge of the Chief Court of Mysore

The Senior Surgeon with the Govt of Mysore.